

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE ALAN BENSON,

Defendant.

CASE NO. 3:23-mj-05385-TLF-

BHS-1

ORDER DENYING MOTION FOR
RECUSAL (DKT. NO. 26)


This matter comes before the Court on United States Magistrate Judge Theresa Fricke's order (Dkt. No. 27) denying Defendant George Benson's motion for recusal (Dkt. No. 26). Local Civil Rule 3(f) provides that whenever a judge in this District declines to voluntarily recuse themselves from a case following a party's motion to recuse pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455, "he or she will direct the clerk to refer the motion to the chief judge."

Motions for recusal are governed by 28 U.S.C. § 144 and 28 U.S.C. § 455. Recusal is required if a judge's impartiality might reasonably be questioned or if the judge has a personal bias or prejudice concerning a party. 28 U.S.C. § 455(a), (b)(1). In addition, recusal is required

1 pursuant to § 144 when a party “files a timely and sufficient affidavit that the judge before whom
2 the matter is pending has a personal bias or prejudice either against him or in favor of any
3 adverse party.” Critically, bias or prejudice sufficient to warrant recusal must derive from an
4 extrajudicial source. *Agha-Khan v. Mortgage Elec. Registration Sys., Inc.*, 2022 WL 501564, at
5 *1 (9th Cir. Feb. 18, 2022); *Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir. 1984).

6 During a status hearing before Judge Fricke, Defendant asserted that the proceedings
7 against him and all individuals in the courtroom were fraudulent and, consequently, requested
8 that Judge Fricke recuse herself from the case due to bias. Beyond his conclusory allegation of
9 fraud, Defendant offered no support for his assertion that Judge Fricke exhibited bias.
10 Defendant’s recusal request therefore appears based entirely on Defendant’s discontent with the
11 instant proceedings, which is not a proper basis for recusal. *See Mayes*, 729 F.2d at 607. As
12 such, the Court AFFIRMS Judge Fricke’s denial of Defendant’s recusal request (Dkt. No. 27)
13 and DENIES Defendant’s motion to recuse (Dkt. No. 26).

14 Dated this 29th day of December 2023.

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David G. Estudillo
United States District Judge